IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1561 of 1997

Between:
M/s. Indian Leaf Spring Co., Ltd.,

Rep. By its Director, Nacharam, Hyderabad.

..... PETITIONER

AND
1. The Industrial Tribunal – II, Rep. By its
Chairman cum Presiding Officer, II Floor, Chandravihar,
M.J. Road, Hyderabad.
2. The General Secretary, India Leaf Spring Co.,
Karmika Sangam, 4-3-62, Raghunath Bagh,

Sultan Bazar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order issue a writ particularly one in the nature of Certiorari and quash the Award dated 07.10.1996 in I.D.No.7/1995 on the file of the Industrial Tribunal-II, Hyderabad, after calling for the records.

Counsel for the Petitioner: MR.B.G.RAVINDRA REDDY

Counsel for the Respondent No.: None appeared.

The Court made the following ORDER:

This writ petition is filed by the petitioner-company aggrieved by the award of the first respondent – Industrial Tribunal II in I.D.No.7 of 1995 dated 07.10.1996, under which the workman, with reference to whom, a dispute was raised, was directed to be allotted the work of 'Instrument Reader' on hardening testing machine.

2. According to the petitioner-company one A. Karunakar Rao was appointed as Helper on 10.02.1982. As he indulged in illegal activities, he was suspended on 10.07.1985. As there was adjudication pending before the Tribunal, the petitioner-company sought permission to dismiss the said workman from service, and the said permission was rejected by the Tribunal. Therefore, the said workman was reinstated on 18.10.1993. After reinstatement, the said workman refused to work as Helper wherever he was posted, and insisted that he should be posted as Instrument Reader of Hardening Testing machine. It is also the case of the petitioner-company that there are only two categories of workmen. One is 'Operator' and the other is 'Helper'. The Helper is expected to work in the factory wherever he is posted and it is not open to any of the Helpers to insist that he should be posted or allowed to work only at any particular place in the factory. As the workman refused to work other than as an Instrument Reader on Hardening Testing Machine, the said workman was not paid wages. Thereafter, disciplinary proceedings were initiated against the said workman and a charge sheet was issued and an enquiry Officer was appointed to enquire into the alleged irregularities. Finally, the Enquiry Officer also submitted his report giving a finding that the workman was guilty of the charges

framed against him. At that stage, at the instance of the said workman, the union got the following issue referred to the Industrial Tribunal.

> " Whether the action of the management of India Leaf Spring Co., Ltd., is justified in giving the designation of Helper instead of Instrument Reader on Hardening Testing Machine to Sri A. Karunakar Rao?"

3. The Tribunal after going through the evidence that was adduced before it and on perusing the order of appointment of the workman, though gave a finding that there is no difference between a Helper and Instrument Reader, finally gave a finding in favour of the workman. But, however, as the said workman performed the work of Reader for seven years, the company ought to have described him as Instrument Reader specially. Aggrieved by the said finding, the present writ petition is filed.

4. The grievance of the petitioner is that there is no designation as an Instrument Reader. Therefore, the finding recorded by the Tribunal is clearly illegal and without jurisdiction. It is also the contention of the petitioner-company that there are only two designations among the workmen. One is Operator and the other is Helper. In the absence of any third designation to any of the workmen, the workmen or the union cannot make a demand that any of the workman has to be re-designated, which designation is not available in the pattern of workmen as on the date of the workman's appointment, or, even, subsequently. It is the contention of the petitioner that admittedly the petitioner was appointed only as a Helper; therefore, he cannot seek alteration of his appointment as to the designation. Hence, the petitioner sought for setting aside that portion of the award.

5. This writ petition came up for final hearing on 20.07.2004 and 21.07.2004, and though one Mr. P. Narasimham is appearing on behalf of the respondents, whose name has been printed in the cause list, he did not appear. Therefore, the writ petition is disposed of on hearing the learned counsel for the petitioner.

6. The dispute that was referred to by the Tribunal is whether the workman, A. Karunakar Rao, should be designated as Helper or Instrument Reader and it is not in dispute that the said workman was working as Instrument Reader on Hardening Testing Machine. But the contention of the petitioner-Company is that the said work is being carried on by any of the Helpers, who ever is posted to work on the said

machine, and the persons posted to work on the said Instrument was never designated as an Instrument Reader, as no such designation exists in the Company. It is also the case of the petitioner-company that there are only two designations. One is Operator and the other is Helper among the workmen. In the absence of any other designation, it is not open to the Tribunal to give a direction to the petitioner-Company to re-designate the said A. Karunakar Rao as Instrument Reader. Apart from that, the contention of the petitioner-company is that the said A. Karunakar Rao was appointed as Helper, which is very much clear from the appointment order. Having got appointed as Helper, it is not open to him to seek re-designation of his post, to which he was appointed. Even with regard to the reference made by the Tribunal that there are some other Instrument Readers but, they are also workers, who are being called to work on the machines and the Management never designated as such with reference to any of the worker, as all those workers, who were carrying on the work of Instrument Reader are only Helpers. It is also the case of the petitioner-company that the Helpers are expected to discharge their duties as Helper on whichever machine they were asked to work. It is not open to any of the Helper to choose that he will work only with reference to a particular machine and he should be designated in a particular manner.

7. In the light of the above contentions, the Tribunal was not justified in directing the petitioner-company to re-designate, which is contrary to his own appointment, which shows that he was appointed as a Helper only.

8 . Under the above circumstances, to that extent the order of the Tribunal is set aside and the workman, A. Karunakar Rao, continues to be designated as Helper and is liable to work on whichever machine he is asked to work.

9. The writ petition is accordingly allowed.

---------- 23.07.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty third day of July, Two Thousand and Four.

To

1. The Chairman cum Presiding Officer,
Industrial Tribunal – II, II Floor, Chandravihar,
M.J. Road, Hyderabad.
2. Two CD Copies